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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,212	03/27/2006	Masayuki Takeda	8013-1265	5185
466	7590	10/27/2010		
YOUNG & THOMPSON			EXAMINER	
209 Madison Street			THOMAS, ERIC W	
Suite 500				
Alexandria, VA 22314			ART UNIT	PAPER NUMBER
			2835	
NOTIFICATION DATE	DELIVERY MODE			
10/27/2010	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,212	<b>Applicant(s)</b> TAKEDA ET AL.
	<b>Examiner</b> Eric Thomas	<b>Art Unit</b> 2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 13 September 2010.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1 and 5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1 and 5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 7,072,173 in view of JP 2000-173876 ('876) and JP 01-268110 ('110).

'173 discloses in claim 21, an electrolytic capacitor electrolyte wherein the electrolyte solution contains aluminum tetrafluoride salt with i) aluminum tetrafluoride as an anion component and ii) one of ammonium, amine, quaternized ammonium and quaternary cyclic amidinium as a cation component.

'173 discloses the claimed invention except for the electrolytic capacitor comprises anode and cathode foils, a separator, and an outer case housing the capacitor element, wherein the separator is formed from a heat resistant synthetic resin, wherein the separator is free of polypropylene and polyethylene and a sealing member that seals the outer case.

'876 teaches that a typical electrolytic capacitor comprises an electrolytic capacitor element comprising anode and cathode foils, a separator; wherein an outer case houses the capacitor element; and a sealing member that seals the outer case.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the electrolyte in an electrolytic capacitor comprising anode and cathode foils, and a separator; wherein the capacitor element is formed within an outer case, and a sealing member that seals the

Art Unit: 2835

outer casing, to obtain a sealed electrolytic capacitor having an electrolyte with good electrochemical properties.

'110 discloses an aluminum electrolytic capacitor comprising a wound capacitor element fabricated by winding an anode foil [3], a cathode foil [4] and a separator (5) and impregnating the capacitor element with an electrolyte solution, an outer case [1] for housing the capacitor element, and wherein a separator is a heat resistant synthetic resin (rayon - abstract).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the separator of '173 using the heat resistant synthetic resin of '110, since such a modification would form an aluminum electrolytic capacitor having a separator with high heat resistance.

2. Claim 5 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of U.S. Patent No. 7,072,173 in view of JP 2000-173876 ('876), JP 01-268110 ('110) and Arora et al. (RE 31,743).

'173 discloses the claimed invention except for the anode or cathode foil being subjected to a phosphate treatment.

Arora et al. teach that treating an aluminum foil with a phosphate treatment produces a uniform etched structure.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to treat the anode and cathode foils with a phosphate etch treatment, since such a modification would uniformly etch the anode and cathode foils.

***Response to Arguments***

3. Applicant's arguments filed 9/13/10 have been fully considered but they are not persuasive.

Applicant argues that the 7,072,173 patent is only limited to polypropylene or polyethylene and the claimed subject matter excludes the use of PP or PE. The separator of the '173 patent is not limited to PP or PE (see col. 10 lines 13-20). One of ordinary skill in the art would have been motivated to incorporate the rayon separator of '110 in the capacitor of '173, to obtain an electrolytic capacitor having a heat resistant separator.

The applicant is reminded that a double patenting rejection must rely on a comparison of the claims in the issued (or to be issued) patent. Claim 21 of US 7,072,173 is silent with respect to the type of separator used.

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

Art Unit: 2835

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Thomas whose telephone number is 571-272-1985. The examiner can normally be reached on Monday - Friday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jayprakash N. Gandhi can be reached on 571-272-3740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric Thomas/  
Primary Examiner, Art Unit 2835

